

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

ROGER CHARLES DAY, JR.,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 2:20-cv-00362-JPH-DLP
	)	
T. J. WATSON,	)	
	)	
Respondent.	)	

**ENTRY DENYING MOTION TO APPOINT COUNSEL**

The petitioner asks the Court to appoint counsel to represent him in this habeas case. *See* dkt. [4, 12]. At this stage, there is no indication that discovery or a hearing will be required or that an additional record will need to be developed. Therefore, whether to appoint counsel is purely a discretionary matter. *See* 18 U.S.C. § 3006A(a)(2)(B) ("Whenever . . . the court determines that the interests of justice so require, representation may be provided for any financially eligible person who . . . is seeking relief under section 2241, 2254, or 2255 of title 28."); *see also* *Winsett v. Washington*, 130 F.3d 269, 281 (7th Cir. 1997); *Pruitt v. Mote*, 503 F.3d 647, 654 (7th Cir. 2007).

The courts have made appointment of counsel the exception rather than the rule by limiting it to: (1) capital cases; (2) cases that turn on substantial and complex procedural, legal or mixed legal and factual questions; (3) cases involving uneducated or mentally or physically impaired petitioners; (4) cases likely to require the assistance of experts either in framing or in trying the claims; (5) cases in which the petitioner is in no position to investigate crucial factors; and (6) factually complex cases. *See generally* 1 J. Liebman & R. Hertz, *Federal Habeas Corpus Practice and Procedure* § 12.3b at 383-86 (2d ed. 1994). At this time, none of these factors are present here.

Mr. Day has the means (writing materials, etc.) to present his claims, is literate, and seems to be aware of any circumstances that could support his claims. As such, these are not circumstances in which it is in the interest of justice to appoint counsel for Mr. Day.

For these reasons, the Court concludes that it is not in the interest of justice to appoint counsel to represent him and his motions, dkts. [4, 12] are **denied**.

**SO ORDERED.**

Date: 10/21/2020



James Patrick Hanlon  
United States District Judge  
Southern District of Indiana

Distribution:

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